



ADR NEWS

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It's Not Too Late to Renew Your Listing!

The **2011 Renewal Forms** were distributed in September via email. If you have not received your 2011 Renewal Form, please contact Catherine Homra at 615-741-2687 or Catherine.Homra@tncourts.gov immediately. The deadline for submission of your 2011 Renewal Form was December 31, 2010.

If you missed the December deadline, you may still submit your 2011 Renewal Form. Please contact Catherine Homra for information on how to renew your listing.

If you wish to go on inactive status, you must notify the ADR Commission in writing of your intentions.

VICTIM-OFFENDER MEDIATION:

The Case for Restorative Justice

by Joseph G. Jarret

As the alternative dispute resolution tool that has come to be known as victim-offender mediation (VOM) continues to evolve, so does its definition. However, VOM is most commonly described as the process by which the victim of a crime and the perpetrator of the crime engage in face-to-face dialogue in the presence of a trained mediator. Also known as Restorative Justice due to the attempts made to repair the harm caused or revealed by criminal behavior, VOM is often expanded to include the families of the victim and the offender, and in some instances, members of the community.

In most cases, the VOM process involves four phases. They are:

1. Encounter: Create opportunities for victims, offenders and community members who want to do so to meet to discuss the crime, its aftermath and its effects on the victim individually and the community as a whole
2. Amends: Expect offenders to take steps to repair the harm they have caused by inculcating in them the detrimental effects such behavior has on the victim
3. Reintegration: Seek to restore victims and offenders to whole, contributing members of society
4. Inclusion: Provide opportunities for parties with a stake in a specific crime to participate in its resolution¹

Prior to beginning this voluntary process, the mediator must insure that both parties are viable candidates for mediation. In particular, assurances have to be given that both parties are psychologically capable of making the mediation a constructive experience, and that the victim will not be further harmed by the meeting with the offender.² Further, the mediator must insure that unacceptable referrals such as cases involving domestic violence, abuse or incest, or sexual assault are rejected.

Once the VOM process begins, the mediator assists the parties in resolving their conflict and to construct their own approach to achieving justice in the face of their particular crime. Consequently, both parties are given the opportunity to express their feelings and perceptions of the offence, which often dispels misconceptions they may have had of one another before entering mediation. The meetings conclude with an attempt to reach agreement on steps the offender will take to repair the harm suffered by the victim.³ The approach taken during the mediation process, i.e. facilitative, evaluative or transformative, is left to the individual style of the mediator assigned to the matter.⁴

One of the measurable benefits of VOM is that, through this process, crime victims have an opportunity to get answers to their questions about the crime and the person who committed it. They take an active role in getting their material and emotional needs met. Research indicates that victims who participate in VOM receive more restitution than those who do not and feel safer and less fearful afterwards than those who do not.⁵ Eric Gilman, Restorative Justice Coordinator, Clark County Juvenile Court in Washington State observed that “The restorative value to crime victims of any dialogue process is directly related to how the practitioners of that process understand its function. It is the premise of this essay that regardless of the format of restorative dialogue – meetings, mediation, conferencing, or circles - the primary purpose for making contact with victims should never be to suggest or encourage their participation in a dialogue process. Rather, the purpose of the contact should be primarily, even solely, focused on the community pro-actively responding to individuals who have been harmed by crime in ways that meaningfully address their felt needs.”

Some of the more subtle benefits of VOM besides empowering and restoring victims is the opportunity to instill in the offender a sense of moral obligation to the victim. Further, VOM programs can also serve to reduce

recidivism. A national study of 1,298 juveniles who participated in pretrial VOM found 32 percent less recidivism compared to the control group.⁶ Further, because an offender who goes through a VOM may avoid a conviction on their record, they are likely to be far more successful in finding or retaining a job, thus increasing their ability to make restitution to the victim.

Finally, VOM programs offer victims an expedited means of obtaining justice in contrast to protracted pretrial proceedings, jury selection, and the prospect of seemingly endless appeals.⁷

In summary, VOM is a concept whose time has come. As succinctly pointed out by the American Bar Association, Criminal Justice Section, "One of the chief benefits of the victim-offender mediation/dialogue programs is that they humanize the criminal justice process. By bringing criminal offenders together face-to-face with their victims, it becomes more difficult for the offenders to rationalize their criminal behavior. As they face the individual that they have victimized, the harm caused by their crime is also no longer an abstraction but very real."

End Notes:

1. Mark G. Chupp, Assistant Professor Mandel School of Applied Social Sciences Case Western Reserve University.
2. Id
3. Restorative Justice as Community Building," Full Circle, I, 4: 2. Washington, DC: Restorative Justice Institute.
4. For an excellent analysis on mediations styles see Styles of Mediation: Facilitative, Evaluative, and Transformative Mediation by Zena Zumeta, on the web at www.mediate.com
5. See, Victim Offender Mediation Association, on the web at www.voma.org
6. William Nugent, Jeff Paddock, Mark Umbreit and Lizabeth Winamaki, "Participation in victim-offender mediation reduces recidivism.
7. Victim-Offender Mediation and Plea Bargaining Reform in Texas by Marc Levin Esq., director of the Center for Effective Justice

***Joseph G. Jarret is a Federal and Rule 31 listed general civil mediator and an attorney serving Knox County as its Law Director. He has lectured across the country on various mediation issues and is the 2009-2010 president of the Tennessee Valley Mediation Association, a member of the Tennessee Association of Professional Mediators, Tennessee Bar Association, and the ADR Section of the Knoxville Bar Association. Joe is also an award-winning writer who has published over 85 articles in various professional journals and a former active duty United States Army Combat Arms Officer and Air Force Special Agent. He holds the juris doctorate degree, the masters in public administration degree, a bachelors degree, and a post-graduate certificate in public management. Joe Jarret can be reached at joe.jarret@knoxcounty.org.*

2011 Regional ABA Representation in Mediation Competition

The University of Tennessee College of Law will be hosting the 2011 Regional ABA Representation in Mediation Competition. While the precise timetable for the event has not yet been finalized, 8-12 teams from law schools all over the Southeast will be competing for 1-2 days at the UT COL over the weekend of March 11-13, 2011. This is a wonderful opportunity for law students to engage in well-designed mediation simulations and to receive valuable feedback on, and to improve, their practice skills.

However, in order to provide this valuable experience, the competition relies upon experienced mediators to serve as mediators/judges for the event. Accordingly, UT's Becky Jacobs would like to enlist Tennessee mediators to participate in these roles to showcase our commitment to the advancement of our profession. UT hopes that you will be a part of the program. For more information, you may reach Professor Jacobs at jacobs@utk.edu.

MEDIATION FOCUS OF PRO BONO SUMMIT

by Catherine C. Homra

The Tennessee Supreme Court hosted the first ever statewide pro bono summit on January 21 as part of the Court's Access to Justice Initiative, which targets the growing civil legal needs gap in Tennessee. More than 100 of the state's top attorneys and community leaders attended the summit to discuss ways to increase pro bono efforts throughout the state.

The summit included several break-out sessions where participants addressed a number of topics, including mediation. The mediation session was entitled "Pro Bono Mediation: Why It Works, How to Use It and How to Volunteer." The panel included Becky Jacobs, associate professor and director of the mediation clinic at the University of Tennessee School of Law, Jacqueline Kittrell, executive director of the Community Mediation Center in Knoxville, and Tamara Losel, executive director of the Nashville Conflict Resolution Center. The panelists spoke about their mediation programs and trainings and answered questions about how to become a Rule 31 listed mediator. They also spoke about the great need for volunteer mediators and the benefits of doing volunteer mediation.

Mediation is a prominent and reoccurring focus of the Access To Justice Commission (ATJC). One goal of the Education and Public Awareness Committee is to educate the public about mediation, when and where it is available, and who can benefit from its use. The Pro Bono Committee of the ATJC is charged with increasing pro bono mediations and encouraging mediators to volunteer their services.

Under Rule 31, all listed mediators must be available to conduct three pro bono mediations per year, not to exceed 20 hours. The community mediation centers throughout the state offer great opportunities to gain practical experience in mediation through volunteering. If you are interested in volunteering, you may contact any of the following centers:

- Community Health of East Tennessee, Jacksboro, 423-562-1156
- Community Mediation Center, Crossville, 931-484-0972
- Community Mediation Center, Knoxville, 865-594-1879
- Community Mediation Services, Oak Ridge, 865-463-6888
- Community Reconciliation, Inc., Chattanooga, 423-605-3725
- Coparenting Solutions, Kingston, Wartburg and Lenoir City, 865-803-2290
- Mediation Preparation Program, Memphis, 901-678-2908
- Mediation Services of Putnam County, Cookeville, 931-528-7145
- Memphis Leadership Foundation (MARRS), Memphis, 901-901-729-2931
- Mid-South Mediation Services, Hohenwald, 931-796-0487
- Nashville Conflict Resolution Center, Nashville, 615-291-6272
- Neighborhood Reconciliation Services, Johnson City, 423-202-4964
- Southeast Tennessee Human Resources Agency, Dunlap, 423-949-4023
- Sumner Mediation Services, Gallatin, 615-206-7447
- The Mediation Center, Columbia, 931-840-3565

If you are not located near one of the centers listed above, you may contact your local legal services provider and volunteer to conduct pro bono mediations in your area through their referral programs. These organizations are as follows:

- West Tennessee Legal Services
 - o Jackson, 731-423-0616
 - o Dyersburg, 731-285-8181
 - o Huntingdon, 731-986-8975

- Selmer, 731-645-7961
- Legal Aid of Middle Tennessee and the Cumberland
 - Clarksville, 931-552-6656
 - Columbia, 931-381-5533
 - Cookeville, 931-528-7436
 - Gallatin, 615-451-1880
 - Murfreesboro, 615-890-0905
 - Nashville, 615-244-6610
 - Oak Ridge, 865-637-0484
 - Tullahoma, 931-455-7000
- Legal Aid of East Tennessee
 - Chattanooga, 423-756-4013
 - Cleveland, 423-479-8577
 - Knoxville, 865-637-0484
 - Maryville, 865-981-1818
 - Johnson City, 423-928-8311
 - Morristown, 423-587-4850
- Memphis Area Legal Services
 - Memphis, 901-523-8822
 - Covington, 901-476-1808
- Community Legal Center
 - Memphis, 901-543-3395
- Southeast Tennessee Legal Services
 - Chattanooga, 423-756-0128

You may also contact your local bar association to ask about the need for mediators in your judicial district. Please visit http://www.tba.org/Resources/net_tnbars.html for contact information.

Important ADRC Dates

March 9, 2011	Rule 31 Mediator Applications Deadline for ADRC review on April 26, 2011
April 29, 2011	ADR Commission Meeting, Administrative Office of the Courts, Nashville
June 8, 2011	Rule 31 Mediator Applications Deadline for ADRC review on July 26, 2011
July 26, 2011	ADR Commission Meeting, Administrative Office of the Courts, Nashville
September 9, 2011	Rule 31 Mediator Applications deadline for ADRC review on October 25, 2011
October 25, 2011	ADR Commission Meeting, Administrative Office of the Courts, Nashville

We Would Like to Hear From You!

The Administrative Office of the Courts gladly accepts articles from ADR professionals for publication in the *ADR News*. For more information, please contact Catherine Homra at Catherine.Homra@tncourts.gov.